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10 EDGAR W. TUTTLE, ERIC BRAUN, THE
11 BRAUN FAMILY TRUST, and WENDY
12 MEG SIEGEL, on behalf of themselves and
13 all others similarly situated,

No. C 10-03588 WHA

14 Plaintiffs,

15 v.

16 SKY BELL ASSET MANAGEMENT, LLC,
17 *et al.*,

ORDER TO SHOW CAUSE

18 Defendants.

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25 An order dated April 11, 2011, stated as to arguments made in motions to dismiss by the
26 fund defendants and the Eden Rock defendants (emphasis omitted): “In four months from the
27 date of this order, *i.e.*, on August 11, 2011, both sides may file supplemental submissions
28 concerning the matters that are being held in abeyance by this order, namely personal
jurisdiction and the execution process of the limited partnership agreements (the
forum-selection issue)” (Dkt. No. 118). In other words, further briefing after jurisdictional and
venue discovery was ordered as to arguments made by the fund defendants and the Eden Rock
defendants, and that briefing was due yesterday, August 11.

29 A later order regarding a motion to dismiss by defendant Ernst & Young held, “Ernst &
30 Young’s motion to dismiss . . . [is] held in abeyance . . . On August 11, 2011, both sides may
31 file supplemental submissions concerning the matters that are being held in abeyance by this
32 order (this will be alongside the further submissions concerning jurisdictional discovery as to
33 the fund defendants)” (Dkt. No. 154).

1 Yesterday, there were several filings, all from plaintiffs' counsel. Plaintiffs' counsel
2 filed a motion for appointment as interim class counsel (Dkt. No. 183), a memorandum
3 regarding the issues held in abeyance from defendant Ernst & Young LLC's prior motion to
4 dismiss (Dkt. No. 186), and a "memorandum regarding issues held in abeyance by the April 11,
5 2011 order," which states that it is "specifically as to defendants Rothstein, Kass & Company,
6 P.C. [] and McGladrey & Pullen, LLP" (Dkt. No. 189). In other words, this last submission
7 does not address the fund defendants or the Eden Rock defendants.

8 Thus, the fund defendants and the Eden Rock defendants and Ernst & Young LLC failed
9 to submit any further briefing on the issues held in abeyance by prior orders. Moreover,
10 plaintiffs' counsel missed their deadline to file any further briefing regarding the jurisdiction
11 and venue issues as to the fund defendants or Eden Rock defendants.

12 Plaintiffs are ordered to show cause why all of the fund defendants and Eden Rock
13 defendants should not be dismissed for lack of personal jurisdiction and proper venue.

14 Apart from this, plaintiffs are also ordered to submit their memorandum of
15 understanding with the fund defendants, so that it may be determined whether plaintiffs'
16 counsel purported to act on behalf of the class or affect class rights.

17 Plaintiffs shall respond to this order to show cause by **NOON ON TUESDAY, AUGUST 16,**
18 **2011.**

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20 **IT IS SO ORDERED.**

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22 Dated: August 12, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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